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June 20, 2001

CONFIRMATION

- ☐ U.S. Postal Service  
☐ Via Local Courier  
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☐ Via Facsimile No. \_\_\_\_\_  
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Mr. John Kittle  
Group Director  
Group Art Unit: 3700  
U.S. Patent and Trademark Office  
Washington, D.C. 20231

RECEIVED

JUN 26 2001

TECHNOLOGY CENTER R3700

Re: U.S. Patent Application For  
*MAGNETIC PAGE MARKER*  
Serial No. : 09/628,146  
Applicant: Di Prinzio, Nicolas Javier  
Attorney's Ref.: P56367

Dear Mr. Kittle:

This morning I received an unusual phone call from the Special Program Examiner Steve Markus about our written Request for Refund filed in the U.S. Patent and Trademark Office on the 24th of May 2001, and the response that we received dated 12 June 2001 from the Supervisory Legal Instrument Examiner.

I have three complaints about the telephone call from the Special Program Examiner.

First, the start of the telephone call was not helpful to our representation of the applicant.

Second, the substantial portion of the telephone conversation was devoted to making accusation against either me personally or members of my staff that I believe to be unnecessary and unfounded, apparently based upon the telephone messages left with the Group concerning Paper No. 29. Additionally, coarse language was used by Office personnel during the telephone discussion. This is unnecessary and is not helpful to us to receive this type of telephone calls.

Third, only after I was able to obtain some sense of calm from the Special Program Examiner, was this Special Program Examiner willing to examine the Office prosecution history. As a result of that examination, it was discovered that the Office prosecution history did contain papers received, bearing a date stamp of 8 February 2001, by Group 3700, that authorized the Office to charge a credit card account for extension of time in the amount of U.S. \$195.00. I gather from the discussion with

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the Special Program Examiner that these papers had either been mislaid, misplaced or overlooked in response to our written Request for Refund.

As matter stands, it is incumbent upon the Office personnel to realize that individual applicants bear an extreme financial burden in filing, prosecuting and maintaining U.S. Patent applications and issued patents. By way of reference, the very next phone call I received after the phone call from the Special Program Examiner, was from an individual inventor who is struggling to make his maintenance fee payment, while endeavoring to practice the claims of his patent. These fees for prosecution and maintenance are not a small burden and weigh heavily upon an individual inventor.

It is my understanding that the Office has no record of whether the credit card authorized by the inventor to be charged for the extension of time fees was in fact processed or charged. I believe that the Office owes a duty of fairness to the inventor to make a proper determination of its processing of credit card payment form.


Additionally, my deposit account was charged and I must account to the client for that charge. I would appreciate therefore, if before making my account to the client, the Office reconsiders Paper No. 29 in light of credit card payment form and Petition for Extension of Time that were received by the Group, but apparently mislaid, misplaced or overlooked, and then give a written response in substitution of Paper No. 29, in order that I might be able to explain this accurately to the client.

In short, the style of the Group in initiating an accusation of improper attorney's conduct in response to a mistake by the Office, does nothing to help the applicant, or the attorney who must respond on behalf of the applicant. In view of the volume of pending applications, and the concomitant mistakes that necessarily accompany those applications, it is a better practice to simply put personal feelings aside and to deal only with the facts involved in the situation. Applicant appreciates that courtesy. I trust therefore, that we could continue to handle the complaints from applicants in more professional manner in the future.

Thank you for your assistance in resolving this matter.

With best regards.

Respectfully submitted,

  
Robert E. Bushnell,  
Registration No.: 27,774

REB/jx  
Enclosures: Credit Card Payment Form  
Petition for Extension of Time